

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 15-CR-0106(4) (PJS/FLN)

Plaintiff,

v.

ORDER

ANTHONY PIERRE DOSS,

Defendant.

This matter is before the Court on defendant Anthony Pierre Doss's objection to the January 7, 2016¹ Report and Recommendation ("R&R") of Magistrate Judge Franklin L. Noel. Judge Noel recommends denying Doss's motion to dismiss Count 1 of the Second Superseding Indictment on the ground of duplicity. The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b). Based on that review, the Court adopts the R&R insofar as it applies to Doss.

The Court agrees with Judge Noel that Count 1 charges Doss with only one crime—violating 18 U.S.C. § 924(o) by conspiring to commit an offense under 18 U.S.C. § 924(c)—in two ways: (1) by conspiring to use or carry a firearm during and in relation to a drug trafficking crime and (2) by conspiring to possess a firearm in furtherance of a drug trafficking crime. The Court also agrees with Judge Noel that any risk of duplicity

¹Judge Noel signed the R&R on January 5, but it was not entered on the docket until January 7.

can be fully addressed by giving the jury a unanimity instruction—that is, by instructing the jurors that they cannot find Doss guilty under Count 1 unless they unanimously find that he conspired to use or carry a firearm during and in relation to a drug trafficking crime *or* unanimously find that he conspired to possess a firearm in furtherance of a drug trafficking crime *or* unanimously find that he entered into both types of conspiracy.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court OVERRULES Doss's objection [ECF No. 299] and ADOPTS the January 7, 2016 R&R [ECF No. 287] insofar as it applies to Doss. IT IS HEREBY ORDERED THAT Doss's motion to dismiss Count 1 of the Second Superseding Indictment [ECF No. 142] is DENIED.

Date: February 1, 2016

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge